

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

February 12, 2003

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IN RE: Complaint of AENEAS Communications)
Against Citizens Communications in Weakley)
County, Tennessee.)
)

Docket No. 02-00438 TN REGULATORY AUTHORITY
DOCKET ROOM

REBUTTAL TESTIMONY OF JONATHAN HARLAN

Q: Are you the same Jonathan Harlan who has previously filed direct testimony in this case?

A: Yes.

Q: What is the purpose of your testimony?

A: To respond to the direct testimony filed by Robert Jeffrey and James Hall of Citizens Telecommunications ("Citizens") filed in this docket.

Q: Does Citizens have the capability today of completing a call from a Citizens subscriber in Weakley County to an Aeneas subscriber located in the same county?

A: Apparently so. As Mr. Jeffrey acknowledges, Citizens could, if it choose, route the call over existing facilities to the BellSouth tandem switch in Memphis. BellSouth would identify the call as bound for an Aeneas customer and the call would be completed.

Q: Does Citizens route such calls in this manner?

A: No.

Q: Why not?

A: Apparently because Citizens believes it has no legal responsibility to do so.

Q: Do you agree with Mr. Jeffrey?

A: No. I am not an attorney but it seems to me that Citizens is acting illegally by intentionally routing these calls in a manner that makes it impossible for a Citizens subscriber to call an Aeneas subscriber in the same county.

Q: Please explain.

A: First, Citizens tariffs promise its subscribers local service throughout Weakley County. As the Authority is aware, county-wide local calling is a statutory requirement in Tennessee. *See* T.C.A. § 65-21-114. By preventing its subscribers from being able to complete calls to Aeneas customers located in the same county, Citizens is violating both of its own tariffs and the county-wide calling statute.

Second, as I noted in my earlier testimony, Section 251(a)(1) of the Federal Telecommunications Act imposes a duty on all carriers to connect, directly or indirectly, with the facilities and equipment of other carriers. If an Aeneas subscriber in Weakley County were to place a call to a Citizens subscriber in that county, Aeneas would route the call to a BellSouth tandem switch so that the call could be completed. Citizens has the same obligation.

Third, under Tennessee law, no carrier may "withhold or refuse any service which can reasonably be demanded and furnished when ordered by the Authority." T.C.A. § 65-4-115. I believe that Citizens is unreasonably withholding service from its own

subscribers and from Aeneas' subscribers and that the Authority should order Citizens to provide this service as state law and Citizens' own tariffs require.

Q: Does Aeneas have any voice customers in Weakley County at this time?

A: Not at this time. We can't have any voice customers because they would not be able to receive calls from anyone in the Citizens service area. I would like to have voice customers in Weakley County but Citizens practice of dropping calls has made that impossible.

Q: Are you aware of any other incumbent telephone company whose customers cannot call the customers of Aeneas.

A: No, I am not. Apparently, all other carriers route their Aeneas-bound traffic to a BellSouth tandem as specified in the Local Exchange Routing Guide.

Q: Does Aeneas have an interconnection agreement with any carrier other than BellSouth?

A: No. Under state law, as it has been interpreted and applied by this Authority, a CLEC is only required to have an interconnection agreement with an incumbent carrier if the CLEC operates in the service territory of the incumbent or otherwise directly connects with the incumbent. If that were not the case, every CLEC would have to have an interconnection agreement with every incumbent carrier in the state. That would clearly be impracticable. To my knowledge, no CLEC in Tennessee has an interconnection agreement with any incumbent carrier unless the CLEC operates in the incumbent's service area.

Q: Do you have any concluding remarks?

A: Yes. It is ironic to me that anyone in the world can pick up a telephone and reach an Aeneas customer in Weakley County except for Citizens customers in the same county. I am not a telecommunications network engineer, but I know that the first priority of a telephone company should be to insure that calls are completed. For more than a year, Citizens has been aware that these intra-county calls are being dropped because Citizens refuses to properly route the calls to a BellSouth tandem. It is apparent from Citizens testimony that they are more concerned about having to pay transit costs to BellSouth than they are about completing local calls made by their own customers. The Authority should direct Citizens immediately to route this traffic to a BellSouth tandem so that the calls can be completed.

Q: Does that conclude your testimony?

A: Yes.

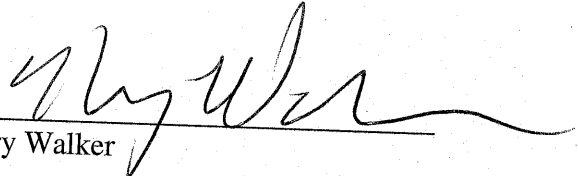
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via fax or hand delivery and U.S. mail to the following on this the 12th day of February, 2003.

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